

IN THE UNITED STATES BANKRUPTCY COURT FOR THE SOUTHERN DISTRICT OF IOWA

In the Matter of:

Gretter Autoland, Inc.

Case No. **14-02831-als7**

Debtor(s)

Adversary No. **15-30042-als**

Brown, Winick, Graves, Gross, Baskerville & Schoenebaum, PLC

Plaintiff(s)

vs.

Edwards Auto Plaza, Inc.

Defendant(s)

Defendant's Motion to Dismiss (#7)

ORDER

(date entered on docket: December 7, 2015)

Upon review of the relevant dockets and filed documents the Court hereby FINDS that:

1. During the chapter 11 cases of Gretter Autoland, Inc. and its affiliates a Motion for Sale Free and Clear of Liens under 363 was approved by the Court. (docket number 208).
2. The transfer of the franchise agreements to the proposed buyer, Edwards Auto Plaza, Inc. was denied by the Court (docket number docket number 255). A Motion to Reconsider the ruling filed by James Gretter was denied. These matters are currently pending on appeal to the United States District Court for the Southern District of Iowa.
3. On October 9, 2015 the case of Gretter Autoland, Inc. was converted to a chapter 7 proceeding.
4. On October 9, 2015 the Plaintiff filed this adversary proceeding.
5. On November 10, 2015 a telephonic status conference was conducted on the Plaintiff's Motion for Authority to Deposit Funds with the Clerk of Court in a non-interest bearing account (docket number 2). In addition to the Plaintiff and Defendant, the chapter 7 trustee, counsel for the chapter 7 trustee and the Assistant U.S. Trustee participated in the status conference.
6. Due to the conversion of the chapter 11 case(s) to chapter 7 a discussion was conducted at the status conference related to the chapter 7 trustee's potential interest in the sale deposit that is the subject of this adversary proceeding.
7. On November 19, 2015 the Court entered an Order directing the Plaintiff to pay the funds representing the Defendant's deposit under the approved sale Motion to be sent to the Clerk of the Bankruptcy Court to be held in a non-interest bearing account. To date these funds have not been remitted.
8. The chapter 7 trustee has not entered an appearance or filed any procedural or substantive motions in this adversary proceeding.
9. No timely objections to the pending Motion to Dismiss have been filed within the time period stated in the Notice of Hearing filed at docket number 17.

It is hereby ORDERED that:

1. The case is dismissed without prejudice.

2. This Order is entered without consideration of or a determination on the merits asserted by any party.
3. The Order entered at docket number 16 is vacated and is of no further force or effect.

/s/ Anita L. Shodeen
Anita L. Shodeen
U.S. Bankruptcy Judge

Parties receiving this order from the Clerk of Court:

- ☒ Electronic Filers in this Adversary Proceeding
☐ Everyone in this Adversary Proceeding
☐ Others: